

SENATE BILL No. 280

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-30; IC 4-21.5-2-5; IC 5-14; IC 6-3.1-24.

Synopsis: Venture capital investments. Establishes the venture capital fund. Authorizes the fund to sell contingent tax credits to public utilities to obtain capital to be used to invest in new high technology ventures in Indiana. Authorizes the fund to invest in local certified equity pools and other investment groups. Requires that each dollar of investment from the fund must be matched by two dollars of private investment.

Effective: January 1, 2003.

Johnson

January 7, 2002, read first time and referred to Committee on Finance.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 280

A BILL FOR AN ACT to amend the Indiana Code concerning economic development and taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-4-30 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2003]:

4 **Chapter 30. Venture Capital Fund**

5 **Sec. 1. (a) As used in this chapter, "fund" means the venture**
6 **capital fund established by section 2 of this chapter.**

7 **(b) As used in this chapter, "investor group" means an**
8 **individual, a corporation, a partnership, a local certified equity**
9 **pool, or another lawfully organized entity.**

10 **(c) As used in this chapter, "local certified equity pool" means**
11 **a for-profit partnership, corporation, trust, or limited liability**
12 **company that:**

13 **(1) is located, headquartered, and registered to conduct**
14 **business in Indiana;**

15 **(2) has as its primary business activity the investment of cash**
16 **in qualified Indiana businesses; and**

17 **(3) is certified by the fund as meeting the criteria of this**



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chapter.

(d) As used in this chapter, "private investment" means an investment of money that:

- (1) is not derived from federal, state, or local taxes; and
- (2) is not made by a person owning more than five percent (5%) of the company seeking an investment from the venture capital fund.

(e) As used in this chapter, "qualified Indiana business" means an independently owned and operated business that:

- (1) is a seed, a startup, or an early stage venture, as defined by the fund in its written guidelines, taking into account the United States Small Business Administration's definition of a small business (13 CFR 121.301(c));
- (2) is a high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5);
- (3) has its headquarters in Indiana;
- (4) employs at least seventy percent (70%) of its employees in Indiana, ninety-five percent (95%) of whom are Indiana residents;
- (5) is in need of venture capital and is unable to obtain capital using conventional financing;
- (6) is not involved in:
 - (A) real estate;
 - (B) real estate development;
 - (C) insurance;
 - (D) professional services provided by:
 - (i) accountants;
 - (ii) lawyers; or
 - (iii) physicians;
 - (E) retail sales, except when the primary purpose of the business is developing or supporting electronic commerce using the Internet; or
 - (F) gas and oil exploration.

Sec. 2. (a) There is established a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions, to be known as the venture capital fund.

(b) The fund is composed of the following nine (9) members:

- (1) The lieutenant governor, or the lieutenant governor's designee.
- (2) The treasurer of state, or the treasurer of state's designee.
- (3) Seven (7) members appointed by the governor, not more than four (4) of whom may be from the same political party.



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(c) All members must be residents of Indiana.

Sec. 3. All appointments to the fund are for terms of four (4) years. Each member holds office for the term of the appointment and continues to serve after the member's appointment expires until the member's successor is appointed and qualified. A member is eligible for reappointment. A member may be removed from office by the governor and serves at the governor's pleasure.

Sec. 4. (a) The governor shall name the chairperson from among the members to serve at the governor's pleasure. The members shall elect from among their number a vice chairperson and other officers as they determine.

(b) The members of the fund appointed by the governor under section 2(b)(3) of this chapter are entitled to a per diem allowance for attending meetings equal to that provided by law for members of the general assembly. All the members of the fund are entitled to receive reimbursement for actual and necessary expenses on the same basis as state employees.

Sec. 5. The powers of the fund are vested in the members. Five (5) members of the fund constitute a quorum for the transaction of business. The affirmative vote of at least five (5) members is necessary for any action to be taken by the fund. A vacancy in the membership of the fund does not impair the right of a quorum to exercise all rights and perform all duties of the fund.

Sec. 6. Meetings of the members of the fund shall be held at the call of the chairperson or whenever any three (3) members so request. The members shall meet at least once every three (3) months to attend to the business of the fund.

Sec. 7. The lieutenant governor shall serve as the secretary-manager of the fund. The secretary-manager shall administer, manage, and direct the affairs and activities of the fund in accordance with the policies and under the control and direction of the members. The secretary-manager shall approve all accounts for salaries, allowable expenses of the fund or of any employee or consultant, and expenses incidental to the operation of the fund. The secretary-manager shall perform other duties as directed by the members in carrying out this chapter.

Sec. 8. (a) The secretary-manager shall do the following:

- (1) Attend the meetings of the fund.
- (2) Keep a record of the proceedings of the fund.
- (3) Maintain and be custodian of all books, documents, and papers filed with the fund and its official seal.

(b) The secretary-manager may make copies of all minutes and



1 other records and documents of the fund and may give certificates
 2 under seal of the fund to the effect that the copies are true copies.
 3 All persons dealing with the fund may rely upon such certificates.

4 Sec. 9. The fund may, without the approval of the attorney
 5 general or any other state officer, employ legal counsel, technical
 6 experts, and other officers, agents, and employees, permanent or
 7 temporary, as it considers necessary to carry out the efficient
 8 operation of the fund, and shall determine their qualifications,
 9 duties, compensation, and terms of service. The members may
 10 delegate to the secretary-manager or one (1) or more agents or
 11 employees of the fund the administrative duties they consider
 12 proper, including the powers of the fund set forth in this section.
 13 Employees of the fund shall not be considered employees of the
 14 state.

15 Sec. 10. Any member or employee of the fund who has, will
 16 have, or later acquires an interest, direct or indirect, in any
 17 transaction with the fund shall immediately disclose the nature and
 18 extent of the interest in writing to the fund as soon as the member
 19 or employee has knowledge of the actual or prospective interest.
 20 The disclosure shall be announced in an open meeting and entered
 21 upon the minutes of the fund. Upon disclosure, the member or
 22 employee shall not participate in any action by the fund
 23 authorizing the transaction. However, the interest does not
 24 invalidate actions by the fund with the participation of the
 25 disclosing member before the time the member became aware of
 26 the interest or should reasonably have become aware of the
 27 interest.

28 Sec. 11. Notwithstanding any other law, an officer or employee
 29 of the state does not forfeit office or employment by accepting
 30 membership in the fund or by providing services to the fund.

31 Sec. 12. Each member of the fund shall execute a surety bond in
 32 the penal sum of twenty-five thousand dollars (\$25,000). To the
 33 extent any member of the fund is already covered by a bond
 34 required by state law, the member need not obtain another bond
 35 if the bond required by state law is in at least the penal sum
 36 specified in this section and covers the member's activities for the
 37 fund. Instead of a bond, the chairperson of the fund may execute
 38 a blanket surety bond covering each member and the employees or
 39 other officers of the fund. Each surety bond must be conditioned
 40 upon the faithful performance of the duties of the office of the
 41 member and shall be issued by a surety company authorized to
 42 transact business in Indiana as surety. At all times after the

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1 issuance of any surety bonds, each member shall maintain the
 2 surety bonds in full force and effect. All costs of the surety bonds
 3 shall be borne by the fund.

4 Sec. 13. (a) The fund is granted all powers necessary or
 5 appropriate to carry out and effectuate its public and corporate
 6 purposes under this chapter, including but not limited to the
 7 following:

8 (1) Have perpetual succession as a body politic and corporate
 9 and an independent instrumentality exercising essential public
 10 functions.

11 (2) Without complying with IC 4-22-2, adopt, amend, and
 12 repeal bylaws, rules, and regulations that are not inconsistent
 13 with this chapter, IC 4-4-21, and IC 15-7-5 and are necessary
 14 or convenient to regulate its affairs and to carry into effect the
 15 powers, duties, and purposes of the fund and conduct its
 16 business.

17 (3) Sue and be sued in its own name.

18 (4) Have an official seal and alter it at will.

19 (5) Maintain an office or offices at a place or places within
 20 Indiana as it may designate.

21 (6) Make and execute contracts and all other instruments
 22 necessary or convenient for the performance of its duties and
 23 the exercise of its powers and functions under this chapter.

24 (7) Employ attorneys, accountants, financial experts, and
 25 other advisers, consultants, and agents as may be necessary in
 26 its judgment and fix their compensation.

27 (8) Procure insurance against any loss in connection with its
 28 property and other assets, including loans and loan notes in
 29 amounts and from insurers as it considers advisable.

30 (b) The fund's powers under this chapter shall be interpreted
 31 broadly to effectuate the purposes of this chapter and may not be
 32 construed as a limitation of powers.

33 Sec. 14. (a) The fund shall:

34 (1) adopt:

35 (A) rules under IC 4-22-2; or

36 (B) a policy;

37 establishing a code of ethics for its employees; or

38 (2) operate under the jurisdiction and rules adopted by the
 39 state ethics commission.

40 (b) A code of ethics adopted by rule or policy under this section
 41 must be consistent with state law and approved by the governor.

42 Sec. 15. The assets of the fund consist of the capital obtained

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from the pledge of contingent tax credits authorized under IC 6-3.1-24.

Sec. 16. (a) The fund shall solicit proposals from qualified investor groups for investment of capital in qualified Indiana business in accordance with this chapter. The board shall establish criteria for selection of investor groups considered qualified to generate capital for investment in a manner that will result in significant potential to create jobs and to diversify the economy of Indiana.

(b) The criteria must include:

(1) the applicant's:

(A) level of experience;

(B) quality of management;

(C) investment philosophy and success;

(D) historical investment performance; and

(E) probability of success in fundraising;

(2) the amount and timing of fees to be paid; and

(3) other investment criteria commonly used in professional portfolio management as considered appropriate by the fund.

Sec. 17. An investment by the fund in a qualified Indiana business is limited by the following:

(1) Each dollar of the fund's investment must be matched by at least two dollars (\$2) of private investment; and

(2) the fund's investment in any one (1) qualified Indiana business may not exceed ten percent (10%) of the fund's assets.

SECTION 2. IC 4-21.5-2-5, AS AMENDED BY P.L.172-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. This article does not apply to the following agency actions:

(1) The issuance of a warrant or jeopardy warrant for the collection of taxes.

(2) A determination of probable cause or no probable cause by the civil rights commission.

(3) A determination in a factfinding conference of the civil rights commission.

(4) A personnel action, except review of a personnel action by the state employees appeals commission under IC 4-15-2 or a personnel action that is not covered by IC 4-15-2 but may be taken only for cause.

(5) A resolution, directive, or other action of any agency that relates solely to the internal policy, organization, or procedure of

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that agency or another agency and is not a licensing or enforcement action. Actions to which this exemption applies include the statutory obligations of an agency to approve or ratify an action of another agency.

(6) An agency action related to an offender within the jurisdiction of the department of correction.

(7) A decision of the department of commerce, the department of environmental management, the enterprise zone board, the tourist information and grant fund review committee, the Indiana development finance authority, the Indiana business modernization and technology corporation, the corporation for innovation development, the Indiana small business development corporation, **the venture capital fund**, or the lieutenant governor that concerns a grant, loan, bond, tax incentive, or financial guarantee.

(8) A decision to issue or not issue a complaint, summons, or similar accusation.

(9) A decision to initiate or not initiate an inspection, investigation, or other similar inquiry that will be conducted by the agency, another agency, a political subdivision, including a prosecuting attorney, a court, or another person.

(10) A decision concerning the conduct of an inspection, investigation, or other similar inquiry by an agency.

(11) The acquisition, leasing, or disposition of property or procurement of goods or services by contract.

(12) Determinations of the department of workforce development under IC 22-4-18-1(g)(1), IC 22-4-40, or IC 22-4-41.

(13) A decision under IC 9-30-12 of the bureau of motor vehicles to suspend or revoke the driver's license, a driver's permit, a vehicle title, or a vehicle registration of an individual who presents a dishonored check.

(14) An action of the department of financial institutions under IC 28-1-3.1 or a decision of the department of financial institutions to act under IC 28-1-3.1.

(15) A determination by the NVRA official under IC 3-7-11 concerning an alleged violation of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.

(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the rules of the Indiana department of administration provide an administrative appeals process.

SECTION 3. IC 5-14-1.5-6.1, AS AMENDED BY P.L.37-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JANUARY 1, 2003]: Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:
 - (A) Collective bargaining.
 - (B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.
 - (C) The implementation of security systems.
 - (D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews with industrial or commercial prospects or agents of industrial or commercial prospects by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, **the venture capital fund**, or economic development commissions.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

- (A) to receive information concerning the individual's alleged misconduct; and
- (B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is a physician.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget

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process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 4. IC 5-14-3-4, AS AMENDED BY P.L.201-2001, SECTION 1, AND AS AMENDED BY P.L.271-2001, SECTION 1, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) The following public

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records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
 - (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
 - (3) Those required to be kept confidential by federal law.
 - (4) Records containing trade secrets.
 - (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
 - (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
 - (7) Grade transcripts and license examination scores obtained as part of a licensure process.
 - (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
 - (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
 - (10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.
 - (11) *The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):*
 - (A) Telephone number.
 - (B) Social Security number.
 - (C) Address.
 - ~~(12)~~ *(12) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.*
- (b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:
- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.
 - (2) The work product of an attorney representing, pursuant to

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1 state employment or an appointment by a public agency:

2 (A) a public agency;

3 (B) the state; or

4 (C) an individual.

5 (3) Test questions, scoring keys, and other examination data used
6 in administering a licensing examination, examination for
7 employment, or academic examination before the examination is
8 given or if it is to be given again.

9 (4) Scores of tests if the person is identified by name and has not
10 consented to the release of ~~his~~ **the person's** scores.

11 (5) The following:

12 (A) Records relating to negotiations between the department
13 of commerce, the Indiana development finance authority, the
14 film commission, the Indiana business modernization and
15 technology corporation, **the venture capital fund**, or
16 economic development commissions with industrial, research,
17 or commercial prospects, if the records are created while
18 negotiations are in progress.

19 (B) Notwithstanding clause (A), the terms of the final offer of
20 public financial resources communicated by the department of
21 commerce, the Indiana development finance authority, the film
22 commission, the Indiana business modernization and
23 technology corporation, **the venture capital fund**, or
24 economic development commissions to an industrial, a
25 research, or a commercial prospect shall be available for
26 inspection and copying under section 3 of this chapter after
27 negotiations with that prospect have terminated.

28 (C) When disclosing a final offer under clause (B), the
29 department of commerce shall certify that the information
30 being disclosed accurately and completely represents the terms
31 of the final offer.

32 (6) Records that are intra-agency or interagency advisory or
33 deliberative material, including material developed by a private
34 contractor under a contract with a public agency, that are
35 expressions of opinion or are of a speculative nature, and that are
36 communicated for the purpose of decision making.

37 (7) Diaries, journals, or other personal notes serving as the
38 functional equivalent of a diary or journal.

39 (8) Personnel files of public employees and files of applicants for
40 public employment, except for:

41 (A) the name, compensation, job title, business address,
42 business telephone number, job description, education and

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1 training background, previous work experience, or dates of
 2 first and last employment of present or former officers or
 3 employees of the agency;

4 (B) information relating to the status of any formal charges
 5 against the employee; and

6 (C) information concerning disciplinary actions in which final
 7 action has been taken and that resulted in the employee being
 8 disciplined or discharged.

9 However, all personnel file information shall be made available
 10 to the affected employee or ~~his~~ **the employee's** representative.
 11 This subdivision does not apply to disclosure of personnel
 12 information generally on all employees or for groups of
 13 employees without the request being particularized by employee
 14 name.

15 (9) Minutes or records of hospital medical staff meetings.

16 (10) Administrative or technical information that would
 17 jeopardize a ~~recordkeeping~~ **record keeping** or security system.

18 (11) Computer programs, computer codes, computer filing
 19 systems, and other software that are owned by the public agency
 20 or entrusted to it and portions of electronic maps entrusted to a
 21 public agency by a utility.

22 (12) Records specifically prepared for discussion or developed
 23 during discussion in an executive session under IC 5-14-1.5-6.1.
 24 However, this subdivision does not apply to that information
 25 required to be available for inspection and copying under
 26 subdivision (8).

27 (13) The work product of the legislative services agency under
 28 personnel rules approved by the legislative council.

29 (14) The work product of individual members and the partisan
 30 staffs of the general assembly.

31 (15) The identity of a donor of a gift made to a public agency if:

32 (A) the donor requires nondisclosure of his identity as a
 33 condition of making the gift; or

34 (B) after the gift is made, the donor or a member of the donor's
 35 family requests nondisclosure.

36 (16) Library or archival records:

37 (A) which can be used to identify any library patron; or

38 (B) deposited with or acquired by a library upon a condition
 39 that the records be disclosed only:

40 (i) to qualified researchers;

41 (ii) after the passing of a period of years that is specified in
 42 the documents under which the deposit or acquisition is

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made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

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(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 5. IC 6-3.1-24 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

Chapter 24. Contingent Public Utility Tax Credit

Sec. 1. As used in this chapter, "qualified taxpayer" means a public utility (as defined in IC 8-1-2-1).

Sec. 2. As used in this chapter, "state tax liability" means a qualified taxpayer's total tax liability that is incurred under:

(1) IC 6-2.1 (the gross income tax);

(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
or

(3) IC 6-3-8 (the supplemental net income tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this article.

Sec. 3. The aggregate amount of tax credits that may be allowed under this chapter may not exceed fifty million dollars (\$50,000,000).

Sec. 4. The tax credits allowed under this chapter are contingent upon the following and may not be awarded until after the following sequence of events occurs:

(1) A qualified taxpayer must pledge to purchase the tax credit from the venture capital fund, as established by IC 4-4-30-2, before January 1, 2005.

(2) The venture capital fund must use the qualified taxpayer's pledge to purchase a tax credit to obtain capital to fund the investments of the venture capital fund.

(3) The venture capital fund determines that it must sell the tax credit to meet the fund's obligations incurred under subdivision (2).

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1 (4) The qualified taxpayer purchases the tax credit from the
2 venture capital fund.

3 Sec. 5. The venture capital fund may sell tax credits to a
4 qualified taxpayer for one dollar (\$1) for each dollar of tax credit
5 granted to the qualified taxpayer.

6 Sec. 6. Before March 31 of each year, the venture capital fund
7 shall certify to the department the amount of tax credits sold under
8 this chapter for the preceding calendar year.

9 Sec. 7. The aggregate amount of tax credits that may be allowed
10 under this chapter in a particular calendar year may not exceed
11 ten million dollars (\$10,000,000).

12 Sec. 8. A qualified taxpayer's tax credit allowed under section
13 5 of this chapter may not exceed the qualified taxpayer's state tax
14 liability for the particular taxable year. The amount of the credit
15 exceeding the qualified taxpayer's state tax liability may be carried
16 forward until the credit is fully used. However, the credit may not
17 be carried forward to a taxable year beginning more than ten (10)
18 years after the date the qualified taxpayer purchased the tax credit.

19 SECTION 6. [EFFECTIVE JANUARY 1, 2003] IC 6-3.1-24, as
20 added by this act, applies to taxable years beginning after
21 December 31, 2002.

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